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UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
_____

Ex parte ROY E. LOWRANCE and DWIGHT J. GIBBS
_____

Appeal 2009-002094
Application 10/820,797[1]
Technology Center 2100
_____

Decided: February 26, 2010
_____

Before JEAN R. HOMERE, STEPHEN C. SIU, and JAMES R. HUGHES,
Administrative Patent Judges.

HUGHES, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal the Examiner's rejection of claims 1, 3, 5-11, 22, 24, 26-32, 43, 45, and 47-53, which are all the claims pending in the present application, under authority of 35 U.S.C. § 134(a). The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellants' Invention

Appellants invented a system and method for verifying the accuracy of reported information based on data related to the creation of the reported data. Specifically, by generating a hash based on the report information, query statements used to generate the report, and the date and time the report was generated. (Spec. ¶¶ [0006], [0031].)[2]

Representative Claim

Independent claim 1 further illustrates the invention. It reads as follows:

1. A method for generating verifiable report information, the method comprising:

retrieving report information from a central data repository using one or more query statements;

generating a report using the report information;

generating a hash based on ingredient data related to the generation of the report, wherein the ingredient data comprises the report information, the one or more query statements, and at

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[2] We refer to Appellants' Specification ("Spec."); Appeal Brief ("App. Br.") filed December 5, 2007; and Reply Brief ("Reply Br.") filed May 12, 2008. We also refer to the Examiner's Answer ("Ans.") mailed March 17, 2008.

least one of a date and time the report was generated and a version of the report information;

storing the hash and the ingredient data in an ingredient database, the hash being associated with the ingredient data in the ingredient database; and

outputting the report, the report including the report information and a copy of the generated hash stored in the database, wherein the stored hash and the ingredient data may be subsequently accessed using the copy of the hash included in the report to verify the report information.

References

The Examiner relies on the following reference as evidence of unpatentability:

| Hillis | US 2003/0196094 A1 | Oct. 16, 2003 |

Rejections

The Examiner rejects claims 1, 3, 5, 7-11, 22, 24, 26, 28-32, 43, 45, 47, and 49-53 under 35 U.S.C. § 102(e) as being anticipated by Hillis.[3]

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[3] We note, as indicated by Appellants (App. Br. 9), that the Examiner mistakenly lists as rejected claims 1-9, 22-30, and 43-51 with respect to the § 102(e) rejection, but discusses claims 1-5, 7-11, 22-26, 28-32, 43-47, and 49-53 with respect to this rejection. We also note that claims 2, 4, 12-21, 23, 25, 33-42, 44, 46, and 54-63 have been canceled. (Final Office Action dated May 4, 2007 at 2-5; Ans. 3-5.) Thus, we interpret the Examiner's rejection, as do Appellants (App. Br. 9), as rejecting claims 1, 3, 5, 7-11, 22, 24, 26, 28-32, 43, 45, 47, and 49-53 under 35 U.S.C. § 102(e) as being anticipated by Hillis. Accordingly, we view the Examiner's mistake as harmless error.

The Examiner rejects claims 6, 27, and 48 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hillis and the Examiner's Official Notice.[4]

ISSUES

Based on Appellants' contentions, as well as the findings and conclusions of the Examiner, the pivotal issue before us is as follows.

Have Appellants established that the Examiner erred in finding the Hillis reference discloses generating a hash based on ingredient data including report information, one or more query statements, and at least one of a date and time a report was generated and a version of the report information?

FINDINGS OF FACT (FF)

Hillis Reference

1.   Hillis describes a system, method, and hashing scheme for authenticating the content of a distributed database. (Abstract; ¶¶ [0002]-[0005].)

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[4] *See* note 3, *supra*. We note that the Examiner mistakenly withdraws the rejection with respect to claims 6 and 48, and lists claims 2, 4, 6, 23, 25, 44, 46, and 48 as canceled. (Ans. 2.) However, Appellants did not cancel claims 6 and 48, and the Examiner discusses claims 6 and 48 with respect to the § 103 rejection. Appellants do not object to this rejection. Thus, we interpret the Examiner as rejecting claims 6, 27, and 48 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hillis and the Examiner's Official Notice. Accordingly, we treat the Examiner's mistake as harmless error.

2.   Hillis generates a hash – an index hash – when a data object is registered in the system:

> When a data object is registered in the system, its type and
> content are used to generate a fast, unique hash value, which is
> used as the aforementioned index into the registry. This hash
> value is used to identify and register the data object into the
> registry and is used as the index in the registry's hash table. In
> the preferred embodiment, the index hash is chosen from a 128-
> bit address space, and is assumed to be unique for each object.
> If the same object is encountered twice, then both instances
> generate the same hash index. Thus, identical objects of
> identical types are always treated by the system as a single
> object.

(¶ [0242].)

3.   Hillis also generates an index hash when a user queries a search engine to retrieve knowledge of a particular subject:

> When a user 10 uses the search engine 40 to posit a query, for
> example, "Tell me about the Gettysburg Address," the query
> engine 41 in this example accesses both the universe of
> available information (numeric designator 5), and the metaweb
> server 38 (numeric designator 6). This results in the retrieval of
> knowledge from the universe of knowledge resulting from the
> user's query. Using the knowledge retrieved, an index hash is
> created, which is used to access the registry entry for that piece
> of knowledge in the registry database 69. Thereafter, user
> annotations and document metadata relating to the knowledge
> may be retrieved from the annotations database 43, (numeric
> designator 7).

(¶ [0351].)

4.   The content (¶ [0242]) or knowledge (¶ [0351]) used to create the index hash is the information (data) contained in the data object – "the knowledge within the knowledge base is viewed as data, and . . . [e]ntities of content, for example explanations, topics, paths, and links, are viewed as data objects." (¶ [0170].)

5.   Hillis stores identifying information for a particular data object in a hash table. The information may include a representation of the object data, e.g., report information (knowledge) and query statements, as well as annotations and document metadata, e.g., date, time, and version of the document (content). (¶¶ [0116], [0244]-[0245], [0300]; Figs. 17A, 17B.) Specifically, Hillis explains that:

> [A] hash table entry contains a data identifier 110 describing the data object's type, length, and one or more representations of the object's data 111, 112. The hash table entry also contains a metadata identifier 113, which includes an indication of the annotations of the data object.

(¶ [0245].)

> A data object's representation may contain one or more segments . . . . For each segment, the data identifier contains information denoting how to find a string of bits that represent a part of the data object. For example, a segment may be specified by a path to a file and an offset and length of the string of bits representing the segment within the file. Alternatively, the segment may be specified by a query made to a database.

(¶ [0300].)

> [A]nnotation may be added automatically at the time of creation, such as those identifying the creation date, authorship, or language. This form of annotation is referred to as document metadata.

(¶ [0116].)

PRINCIPLES OF LAW

Prima Facie Case of Unpatentability

The allocation of burden requires that the United States Patent and Trademark Office (USPTO) produce the factual basis for its rejection of an

application under 35 U.S.C. § 103. *In re Piasecki*, 745 F.2d 1468, 1472
(Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d 1011, 1016 (CCPA 1967)).
The Examiner bears the initial burden of presenting a prima facie case of
unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). An
Appellant has the opportunity on appeal to the Board of Patent Appeals and
Interferences (BPAI) to demonstrate error in the Examiner's position. *See In
re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("[o]n appeal to the Board,
an applicant can overcome a rejection by showing insufficient evidence of
prima facie obviousness or by rebutting the *prima facie* case with evidence
of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d
1350, 1355 (Fed. Cir. 1998)).

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Anticipation

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Anticipation is a question of fact. *In re Schreiber*, 128 F.3d 1473,
1477 (Fed. Cir. 1997). Under 35 U.S.C. § 102, "[a] claim is anticipated only
if each and every element as set forth in the claim is found, either expressly
or inherently described, in a single prior art reference." *Verdegaal Bros.,
Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987) (citations
omitted); *see also Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375
(Fed. Cir. 2005)(citation omitted).

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ANALYSIS

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Appellants contend, *inter alia*, that the Examiner improperly rejected
claim 1 as being anticipated by Hillis because the Hillis reference doesn't
disclose "generating a hash based on ingredient data" including "the report
information, the one or more query statements, and at least one of a date and

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time the report was generated and a version of the report information."
(App. Br. 10.) After reviewing the record on appeal before us, we agree
with Appellants.

Hillis describes a system and hashing scheme for authenticating the
content of a distributed database, including generating an index hash when a
data object is registered in the system, or when a user queries a search
engine to retrieve knowledge of a particular subject. (FF 1-3.) Hillis' index
hash includes data or knowledge contained in a data object (registered in the
system and/or retrieved during searching). (FF 4.) We find Appellants'
claimed ingredient data including the report information reads on Hillis'
index hash including data contained in the data object.

Hillis also describes a hash table including identifying information for
a particular data object registered with the system (in a hash table). This
information may include a representation of the object data, e.g., content or
knowledge data, as well as query statements. The identifying information
may also include annotations and metadata, e.g., date, time, and version of
the content. (FF 5.)

While Hillis discloses the individual elements or pieces of Appellants
claimed ingredient data – report information, query statements, date and
time a data object was created, and version information for the data object –
Hillis' created index hash does not include each of these required elements.
Rather, the hash table, not the index hash, includes the query statements,
date and time the data object was created, and version information for the
data object. (FF 5.) "Anticipation requires the presence in a single prior art
reference disclosure of each and every element of the claimed invention,
arranged as in the claim." *Lindemann Maschinenfabrik GMBH v. American*

Hoist & Derrick Co., 730 F.2d 1452, 1458 (Fed. Cir. 1984). Here, Hillis does not disclose the ingredient data elements, recited in Appellants' claim 1, in the created index hash.

Appellants' independent claims 22 and 43 also include the disputed "generating a hash based on ingredient data" limitation (*supra*), as do their respective dependent claims. For the foregoing reasons, Appellants have persuaded us of error in the Examiner's anticipation rejection of claims 1, 3, 5, 7-11, 22, 24, 26, 28-32, 43, 45, 47, and 49-53. Accordingly, we reverse the Examiner's rejection of these claims.

Appellants' claims 6, 27, and 48, rejected as being unpatentable over the combination of Hillis and the Examiner's Official Notice, also include the disputed "generating a hash based on ingredient data" limitation. As set forth *supra*, Hillis does not teach or suggest, an index hash including query statements, date and time the data object was created, and version information for the data object. Further, the Examiner's official notice does not cure the deficiencies noted in Hillis. Consequently, Appellants have persuaded us of error in the Examiner's obviousness rejection of claims 6, 27, and 48. Accordingly, we reverse the Examiner's rejection of these claims.

CONCLUSION OF LAW

On the record before us, we find that Appellants have established that the Examiner erred in finding the Hillis reference discloses generating a hash based on ingredient data including report information, one or more query statements, and at least one of a date and time a report was generated and a version of the report information.

DECISION

We reverse the Examiner's rejections of claims 1, 3, 5, 7-11, 22, 24, 26, 28-32, 43, 45, 47, and 49-53 under 35 U.S.C. § 102(e).

We reverse the Examiner's rejections of claims 6, 27, and 48 under 35 U.S.C. § 103(a).

REVERSED

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